

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff/Respondent,	§	
	§	
v.	§	Cr. No. C-06-453
	§	C.A. No. C-08-135
MAGDALENO ELIAS-SANCHEZ,	§	
	§	
Defendant/Movant.	§	

**ORDER DIRECTING CLERK TO CORRECT DOCKET
ENTRY AND TO PROVIDE DOCUMENTS TO MOVANT**

On July 12, 2007, the Clerk received from Defendant Magdaleno Elias-Sanchez (“Elias-Sanchez”) a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. (D.E. 27.)¹ The Court issued an order dismissing the motion and denying Elias-Sanchez a Certificate of Appealability on July 30, 2007. (D.E. 28.) The order and final judgment were both entered on July 31, 2007. (D.E. 28, 29.)

On April 25, 2008, the Clerk received from Elias-Sanchez a document that was titled as a motion pursuant to 28 U.S.C. § 2255. (D.E. 30.) The Clerk docketed it as a § 2255 motion and opened a corresponding civil case, C.A. No. C-08-135. A review of the document, however, reveals that Elias-Sanchez is not attempting to file a second § 2255 motion. Instead, he is inquiring about the status of his first motion. He states that he has not received a response to his first § 2255 motion and he is seeking information as to whether the Court received it and, if so, when the Court intends to resolve that motion. (See D.E. 30 at 1-2.)

As noted above, Elias-Sanchez’s first § 2255 motion was denied by the Court in an order entered July 31, 2007. (D.E. 28.) Nothing in the docket sheet reflects that Elias-Sanchez did not

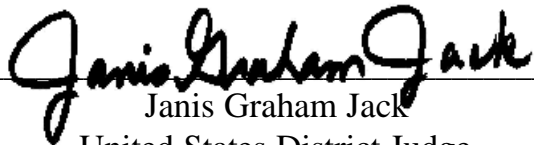
¹ Docket entry references are to the criminal case.

receive a copy of the Court's ruling; however, there is also nothing in the docket that clearly shows he received a copy. In any event, to ensure that he receives them, if he hasn't already, the Clerk is directed to provide copies of docket entries 28 and 29 to Elias-Sanchez.

Additionally, his most recent filing is clearly not a § 2255 motion, despite the title he assigned it. Accordingly, the Clerk is further directed to correct docket entry 30 to reflect that the motion is a motion requesting the status of Elias-Sanchez's first § 2255 motion, and not a separate § 2255 motion.

The corresponding civil action (C.A. No. C-08-cv-135) should also be closed.

It is so ORDERED this 2nd day of May, 2008.



Janis Graham Jack
United States District Judge